



LAND USE COVENANT

RECORDING REQUESTED BY:
County of Sacramento
Economic Development Department
700 H Street, Suite 7650
Sacramento, California 95814
Attention: David Norris
NO FEE DOCUMENT

Recorded in the County of Sacramento
Clark Norris, Clerk/Recorder
BOOK **20000218** PAGE **0242**
Friday, FEB 18, 2000 9:11:40 AM
Ttl Pd \$0.00 Nbr-0000068125
KMB/04/1-71

WHEN RECORDED, MAIL TO:
Department of Toxic Substances Control
Northern California Region
10151 Croydon Way, Suite #3
Sacramento, California 95827
Attention: Anthony J. Landis, P.E., Chief
Office of Military Facilities

(Space Above This Line For Recorder's Use Only)

**COVENANT TO RESTRICT USE OF PROPERTY
ENVIRONMENTAL RESTRICTION**

Re: Various Parcels on the Former Mather Air Force Base,
County of Sacramento (APN 067-0010-021)

This Covenant and Agreement (hereafter referred to as the "Covenant") is made by and between the County of Sacramento (hereafter referred to as the "Covenantor"), the current owner of the real property in the unincorporated territory of the County of Sacramento, State of California described and shown in Exhibit F to the quitclaim deed from the Air Force to the County (hereafter referred to as the "Deed"), and which said Deed is attached as Exhibit 1 to this Covenant and incorporated herein by this reference, and the Department of Toxic Substances Control (hereafter referred to as the "Department"), and the Central Valley Regional Water Quality Control Board (hereafter referred to as the "Water Board"). Pursuant to California Civil Code section 1471(c), the Department and the Water Board have determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence in the groundwater and the soil of hazardous materials as defined in the California Health and Safety Code (hereafter referred to as "H&SC") Section 25260(d), and to protect waters of the State in accordance with California Water Code

Division 7. The Covenantor, the Department and the Water Board, collectively referred to as the "Parties", therefore intend that the use of the real property be restricted as set forth in this Covenant, in order to protect human health, safety and the environment.

ARTICLE I STATEMENT OF FACTS

1.01. The real property subject to this Covenant (hereafter referred to as the "Covenant Property") is located in the main base cantonment area of the former Mather Air Force Base (Mather AFB) and in the southeastern most corner of the former Base and is more particularly described and shown in Exhibit F to the Deed attached hereto as Exhibit I to this Covenant EXCEPTING THEREFROM the following five parcels:

Parcel 1 (Water Facility Parcel 1- Well Site, Depicted on Exhibit 2 to this Covenant):

That parcel of land described as beginning at a Sacramento County spike and washer located at the intersection of the centerlines of Armstrong Avenue and Femoyer Street as shown on that Record of Survey filed in Book 57 of Surveys, Map 20 in the Office of the Recorder in the official records of Sacramento County, California; thence S 85°31'05" W, 774.99 feet to a Sacramento County spike and washer located at the intersection of the centerlines of Armstrong Avenue and Bleckley Street as shown on said Record of Survey; thence N 01°57'28" E, 226.09 feet to the true point of beginning, thence N 04°47'39" W, 23.07 feet; thence N 85°30'02" E, 20.09 feet; thence S 04°48'08" E, 24.07 feet; thence S 85°31'36" W, 20.08 feet to the true point of beginning.

Parcel 2 (Water Facility Parcel 2 - Well Site, Depicted on Exhibit 2 to this Covenant):

That parcel described as beginning at the intersection of the centerlines of Norden Avenue and Bleckley Street; thence N 85°30'21" E, 13.00 feet along the centerline of Norden Avenue to the true point of beginning; thence southeasterly on the arc of a curve, concave to the northeast a distance of 23.57 feet, said curve having a radius of 15.00 feet and a central angle of 90°01'04"; thence N 85°30'21" E, 61.68 feet; thence northerly on the arc of a curve concave to the west a distance of 25.05 feet, said curve having a radius of 10.00 feet and a central angle of 160°41'36"; thence N 75°11'15" W, 63.61 feet; thence southwesterly on the arc of a curve concave to the southeast a distance of 23.56 feet, said curve having a radius of 15.00 feet and a central angle of 89°58'56"; thence S 04°30'43" E, 11.38 feet to the true point of beginning.

Parcel 3 (Water Facility Parcel 3 - Well and Storage Tank Site, Depicted on Exhibit 2 to this Covenant):

That portion of that Record of Survey filed in Book 55, Map 5 of the official records of Sacramento County, California described as follows:

Beginning at a two inch ball cap pipe located at the southeast corner of that 7.806 acre parcel as shown on said Record of Survey; thence N 04°29'23" W, 534.41 feet to a 1" iron pipe tagged LS 5405; thence S 85°26'14" W, 284.90 feet to a concrete nail and brass tag stamped LS 5405; thence S 04°33'46" E, 267.04 feet to a 1" iron pipe tagged LS 5405; thence N 85°26'14" E, 112.39 feet to a 1" iron pipe tagged LS 5405; thence S 04°36'46" E, 267.04 feet to a 1" iron pipe tagged LS 5405; thence N 85°32'41" E, 171.83 feet to the point of beginning.

Parcel 4 (Water Facility Parcel 4 – Well and Ground Reservoir Site, Depicted on Exhibit 2 to this Covenant):

A parcel described as Beginning at a ½" Iron Pin at the angle point in the northerly and easterly boundary of Mather Field; thence S 04°27'55" E, 34.79 feet to the centerline of Mather Blvd.; thence N 85°28'50" E, 20.74 feet on said centerline; thence southeasterly on said centerline on a curve concave to the south with a radius of 300.00 feet and a chord of S 79°09'27" E, 158.95 feet; thence S 63°47'44" E, 225.38 feet on said centerline; thence easterly on said centerline on a curve concave to the north with a radius of 400.00 feet and a chord of S 85°55'53" E, 301.45 feet; thence N 71°55'56" E, 57.40 feet on said centerline; thence leaving said centerline N 10°08'21" W, 216.91 feet to the northerly boundary of Mather Field; thence along said northerly boundary S 85°23'52" W, 591.56 feet to the point of beginning.

Parcel 5 (Water Facility Parcel 5 – Elevated Storage Tank Site, Depicted on Exhibit 2 to this Covenant):

That parcel described as beginning at a concrete nail located on the centerline of Armstrong Avenue prolonged past the centerline of De Bellewe Street thence S 85°30'04" W, 10.55 feet to the intersection of the centerlines of Armstrong Avenue and De Bellevue Street and the true point of beginning; thence along the centerline of Armstrong Avenue N 85°30'04" W, 326.66 feet to a 1" iron pin located at the intersection of Eknes Street and Armstrong Avenue; thence N 04°29'56" W, 8.96 feet along the centerline of Eknes Street to the intersection of Eknes Street and offset Armstrong Avenue; thence along the centerline of Armstrong Avenue S 85°30'04" W, 74.79 feet; thence continuing along the centerline of Armstrong Avenue on a curve concave to the northeast with an arc length of 120.57 feet, a central angle of 23°23'50" and a radius of 295.24 feet, thence N 61°58'59" W, 44.76 feet to the intersection of the centerlines of Armstrong Avenue and Lower Placerville Road; thence along the centerline of Lower Placerville Road N 59°25'39" W, 489.68 feet to the intersection of the centerline of De Bellewe Street, thence along the centerline of De Bellewe Street S 29°43'47" E, 132.78 feet, thence continuing along the centerline of De Bellevue Street on a curve concave to the west with an arc length of 149.10 feet, a central angle of 11°53'31" and a radius of 718.38 feet; thence S 17°50'16" E, 22.09 feet on the centerline of De Bellewe Street to

the true point of beginning.

1.02 The Air Force (hereafter referred to as the "AF") is cleaning up groundwater contamination that may extend beneath portions of the Covenant Property under the supervision and authority of the Department, the Water Board and the United States Environmental Protection Agency (hereafter referred to as the "US EPA"). The Covenant Property is within a portion of the former Mather Air Force Base. The Air Force is remediating the groundwater pursuant to the Soils Operable Unit (OU) Site and Groundwater OU Plumes, Record of Decision (Soils and Groundwater ROD) developed and signed in accordance with 40 Code of Federal Regulations (CFR) Part 300.400 et. seq. The AF circulated the Soils and Groundwater ROD for public review and comment. The Soils and Groundwater ROD was signed by the Department and US EPA in June 1996. Remediation includes a groundwater extraction and treatment system. The remedial treatment system began operation in April 1998 pursuant to the Preliminary Engineering Report for Phase I Groundwater Remediation of the Main Base/Strategic Air Command Industrial Area Plume, July 1997. The Department and Water Board are providing regulatory oversight pursuant to California Health and Safety Code, Division 20, Chapter 6.5. and California Water Code, Division 7. Because hazardous materials (as defined in H&SC section 25260), hazardous wastes and/or constituents (as defined in 22 California Code of Regulations, section 66260.10), and waste (as defined in California Water Code section 13050), including volatile organic compounds, may remain in the groundwater in and under portions of the Covenant Property, the Soils and Groundwater ROD provides that appropriate land-use restrictions would be required as part of the site remediation.

1.03 Contaminated groundwater underneath and near the Covenant Property is found in several zones. Volatile organic compounds (VOCs) and perchlorate are the main contaminants found in groundwater at Mather AFB. It appears that VOCs may be located in at least two zones near the Covenant Property. The first zone is the water table unit and is about 85 to 95 feet below ground surface (bgs) at the Covenant Property. The second zone is a hydrogeologic unit and is about 95 to 120 feet bgs at the Covenant Property. Contaminants and the concentration ranges in the groundwater monitoring wells nearest the Covenant Property include trichloroethene (TCE 0.5 to 18 ug/l), Perchloroethylene (PCE 0.7 to 569 ug/l(ppb)), and carbon tetrachloride (CCl₄ 0.5 to 1.3 ug/l). The approved cleanup standards are the Maximum Contaminant Level (MCL) found in both 40 CFR Part 141 and/or Title 22 California Code of Regulations (CCR) Section 64444 and are 5.0 ug/l for TCE, 5.0 ug/l for PCE, and 0.5 ug/l for CCL.

Ammonium perchlorate has been historically used as an oxidizer in rocket fuel. Perchlorate ion (ClO₄⁻) has been found in three of the four main base drinking water supply wells. These wells draw water from depths between approximately 156 at the shallowest level and 580 feet bgs at the deepest level. The range of contaminant concentration is from 14 to 130 ug/l. The compound was not used at Mather AFB but appears to originate from a site up gradient of the base. The California Department of

Health Services has not set a maximum contaminant level under the Safe Drinking Water Act for this compound, but has issued a provisional action level of 18 ug/l.

A Final Comprehensive Baseline Risk Assessment for Mather Air Force Base, California (Risk Assessment) was completed in April, 1997 by the AF under the direction of the Department, the Water Board and US EPA. The Risk Assessment concludes that the contaminated groundwater could present an unacceptable threat to human health and safety if a drinking water well were installed into one of the contaminated hydrogeologic zones and an individual used the water as a source of drinking water.

1 04. The response actions at Mather AFB also include some 89 soil and subsurface soil sites, some of which are located on the Covenant Property. The AF is remediating the soils pursuant to the Basewide Record of Decision (Basewide ROD) and the Soils and Groundwater ROD, which were developed and signed in accordance with 40 Code of Federal Regulations (CFR) Part 300.400 et seq. The AF circulated the RODs for public review and comment. The Soils and Groundwater ROD was signed by the Department and US EPA in June 1996. The Basewide ROD was signed by the Department and US EPA in September 1998. The Department and the Water Board are providing regulatory oversight pursuant to California Health and Safety Code, Division 20, Chapter 6.5. and California Water Code, Division 7. Because hazardous materials (as defined in H&SC section 25260), hazardous wastes and constituents (as defined in 22 California Code of Regulations, section 66260.10), and waste (as defined in California Water Code section 13050), including volatile organic compounds, may remain in the soil in and under portions of the Covenant Property, the RODs provide that appropriate land-use restrictions are required as part of the site remediation.

Remediation includes various methods, mainly soil vapor extraction (SVE), excavation, and soil treatment. The contaminants of concern at the following sites include metals, dioxins, petroleum, oils, and lubricants (POL), and volatile organic compounds.

Site OT-23 This site is a major soil gas plume that includes areas surrounding portions of the Main Base sanitary sewer system network that may have leaked solvent and/or POL to the adjacent soils. The soil gas plume appears to have originated from a former WWII era base exchange dry cleaner facility. The major contaminant is PCE. A soil vapor extraction system is the remedial treatment alternative selected in the Basewide Record of Decision signed August 1998. The soil vapor extraction system will be in place and operating by June 2000.

Site ST-33. This site formerly contained one 3,600 gallon and five 1,500 gallon underground storage tanks (USTs) that were used to store gasoline and mineral spirits. The tanks were installed in 1942. The tanks were reportedly taken out of service in 1961 and were removed in December 1988.

Approximately 400 cubic yards of contaminated soil were removed from the site, incinerated, and disposed of on the Base. The excavation was backfilled with clean crushed rock and then covered with four-inch thick asphalt paving. Potentially contaminated soil next to the existing structures and buildings was not removed due to limited access. Further excavation may be necessary depending on the future use of the building.

Site ST-35. This site formerly contained four abandoned 25,000 gallon underground fuel storage tanks (UST) that contained aviation gasoline. In 1989 these tanks were removed. Residual soil contamination at the site of these former tanks is currently being remediated using an SVE system, and is to be followed by bioventing. The site cleanup alternative was outlined in the Soils and Groundwater ROD. The site was a "no further action site" under CERCLA, but is being remediated under State authority by the Water Board.

Site ST-56. This site contained an oil/water separator (OWS) at the former Motor Pool washrack. The OWS was removed in 1996. The contaminated soil underlying the site is currently undergoing remediation through SVE. The major contaminant is Total Petroleum Hydrocarbons-Gasoline. This site cleanup alternative was outlined in the Soils and Groundwater ROD and in an Explanation of Significant Differences, finalized and issued by the AF in December 1998.

Site OT-69. This site contained a former ordnance burning and detonation area. The soil remediation was carried out in early 1998 and consisted of excavation and disposal of contaminated soil. Sediment remediation of low levels of dioxin was completed in August of 1999. Approximately 258 bank cubic yards of contaminated sediments were excavated from the drainage ditch at site 69 and transposed to the site 7 landfill to be used as fill material. Following the excavation, confirmation samples were collected from the ditch and analyzed for dioxins and furans. The confirmation sampling showed no detections of dioxins and furans. Site restoration included a final topographic survey of the Site 69 ditch, placing cobble and restoring excavated areas to original flowline conditions. This site cleanup alternative was presented in the Soils and Groundwater ROD.

Site OT-86. This site contained a small arms firing range with lead as the major contaminant. This cleanup alternative, excavation, treatment and disposal, was presented in the Basewide ROD. Approximately 820 cubic yards of soils were removed, treated and disposed of at Site 7. Site 86 restoration included placing clean fill on the site in a manner that would allow for adequate drainage. It is anticipated that this site will have closure documentation completed in 2000.

All of the above sites will be cleaned up to residential levels and the cleanup standards will protect human health and groundwater quality. All the sites, except site OT-86, were

evaluated in the Risk Assessment which concludes that the cancer risks for sites OT-23 and ST-35, which were within or below the acceptable range of 1×10^{-6} to 1×10^{-4} and that the hazard quotient was below 1. Site OT-23 was evaluated before recent data indicated higher levels of PCE. For Sites ST-56 and OT-69, the level of risk for the contaminants was greater than 1×10^{-4} , therefore, the remedial action had to be instituted to reduce human health risk.

Site OT-86 had a separate health risk and ecological risk assessment completed as part of the Final Basewide Operable Unit Focused Feasibility Study Report for Mather Air Force Base because Site OT-86 was identified after the original Risk Assessment was finalized. The results were attached to the Basewide ROD as Appendices B and C. The Site OT-86 risk assessment determined that there was a risk at the site both to humans and ecological systems. The cumulative effect from all other contaminants was below the cancer range and below the hazard quotient. The Basewide ROD called for cleanup of Site OT-86 to residential levels to protect water quality and ecological receptors.

The remedial actions are completed and cleanup goals have been achieved. There will be no risk to human health according to the AF Risk Assessment.

The soils near the water tower (Facility 2400) and under and near the World War II-era wooden structures in Parcels C-2 and C-3 (Facilities 2389, 2393, 3320, 3332, 3335, 3337, 2470, 2474, 2570, 3430, 3454, 3455, 3550, 3686, and 3790), as depicted in Exhibit 3 to this Covenant, may be contaminated by Lead Based Paint (LBP). Due to natural weathering and flaking of the paint, lead from the LBP may be present in the soils under and near these areas. Until an evaluation of the lead-in-soils is completed and US EPA's and the Department's concerns are adequately addressed for these areas, the County and its successors and assigns are required by the Air Force to restrict use of these areas to prevent residential use or occupancy by children under six (6) years of age. In the event the County transfers or otherwise assigns any portion of these areas to another party, the County is required to inform the transferee of the potential LBP in soils and ensure the transferee and any subsequent transferees will be contractually bound by the use restriction against residential or child occupancy use until US EPA's and the Department's concerns are addressed. An evaluation will be conducted and completed by US EPA and the Department with County cooperation and any identified risks will be addressed. The AF and any future owner are required to disclose the potential presence of lead based paint and lead based paint hazards in accordance with Title X of Public Law 102-550.

A list of all technical documents, including title, date and location is attached as Exhibit "4" to this Covenant and included herein by this reference as if specifically set forth herein.

ARTICLE II DEFINITIONS

2.01 Owner. "Owner" means the Covenantor, its successors in interest, and their successors in interest, including heirs and assigns, who hold title to **all** or any portion of the Covenant Property.

2.02. Occupant. "Occupant" means Owners and any person or entity entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of the Covenant Property.

ARTICLE III GENERAL PROVISIONS

3.01 Restrictions to Run with The Land This Covenant sets forth protective provisions, covenants, restrictions, and conditions (collectively referred to hereafter as "Restrictions"), subject to which the Covenant Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. Each and every Restriction. (a) runs with the land pursuant to Civil Code section 1471; (b) inures to the benefit of the Department and the Water Board and passes with each and every portion of the Covenant Property, (c) is for the benefit of, and is enforceable by, the Department and the Water Board, and (d) is imposed upon the entire Covenant Property unless expressly stated as applicable only to a specific portion thereof.

3.02. Binding upon Owners/Occupants. Pursuant to Civil Code Section 1471, this Covenant binds all Owners and Occupants of the Covenant Property, and their agents, employees, and lessees. Pursuant to Civil Code section 1471(b), all successive Owners and Occupants of the Covenant Property are expressly bound hereby for the benefit of the Department and the Water Board.

3.03 Written Notice of Release of Hazardous Substances. Prior to the sale, lease or sublease of the Covenant Property, the owner, lessor, or sublessor shall give the buyer, lessee, or sublessee notice that hazardous substances are located on or beneath the Covenant Property.

3.04 Incorporation into Deeds and Leases This Covenant shall be incorporated by reference in each and all deeds and leases for any portion of the Covenant Property executed subsequent to the execution of this Covenant

3.05 Conveyance of Property The Owner shall notify the Department and the Water Board within thirty (30) days after executing any document conveying any ownership interest in the Covenant Property (excluding mortgages, liens, and other non-possessory encumbrances) The Department and the Water Board shall not, by

reason of this Covenant, have authority to approve, disapprove, or otherwise affect any proposed conveyance, except as otherwise provided by law.

ARTICLE IV RESTRICTIONS

4.01. Applicability. The provisions of this Article shall apply to the real property subject to this Covenant, which is described in Section 1.01.

4.02. Prohibited and Restricted Uses. In order to protect human health, safety and the environment, various uses of the Covenant Property, described in Section 1.01, will be prohibited and restricted as set forth in this Covenant.

4.03. Prohibited Activities Groundwater Use and Restriction. The following activities are prohibited on the property described and shown in Exhibit E to the Deed contained in Exhibit I to this Covenant without the prior review and written approval of the Air Force, U S EPA, the Department and the Water Board as provided in Section 4.05.

- a) Construction of any well within the boundary of the Covenant Property
- b) Extraction, utilization or consumption of groundwater from wells within the boundary of the Covenant Property.
- c) Construction or creation of any groundwater recharge area, unlined surface impoundments or disposal trenches within the boundary of the Covenant Property.
- d) Any other alteration to be undertaken within the boundary of the Covenant Property that impedes or impairs any activities or facilities constructed under the Air Force's Installation Restoration Program (IRP). Notwithstanding the above, the Owner or Occupant shall be under no obligation, within the scope of this Section 4.03 (d), to provide notice to or secure the written approval of the Air Force, U.S. EPA, the Department and the Water Board for any alterations that will be undertaken on the Covenant Property that will not impede or impair any activities or facilities constructed under the Air Force's Installation Restoration Program (IRP).

4.04. Authorized activities. Normal landscaping and irrigation activities within the Covenant Property including routine irrigation practices, are not prohibited activities within the scope of this Section 4.04.

4.05. Restricted Uses. The Owner or Occupant is hereby advised of the presence of groundwater and/or soil contamination within the Covenant Property which is the subject

of ongoing investigation and treatment by the Air Force; and by acceptance of the Deed contained in Exhibit 1 to this Covenant, County covenants and agrees, on behalf of itself, its successors and assigns, that until such time as the remediation action has been closed, all activities within such Covenant Property will be subject to the following conditions and restrictions.

a) Surface and Subsurface Soil Disturbance Notification. This restriction shall only apply to the property described and shown in Exhibit C to the Deed contained in Exhibit 1 to this Covenant. The Owner or Occupant will provide the Department and the Water Board with sixty (60) days advance written notice of all proposals for any alterations or activities to be undertaken within the Covenant Property. The notice shall be accompanied by a detailed written description of proposed alterations or activities. Such work will not impede or impair any activities under the Air Force's Installation Restoration Program (IRP).

b) Two (2) Foot Below Surface Soil Disturbance Notification. This restriction shall only apply to the property described and shown in Exhibit D to the Deed contained in Exhibit 1 to this Covenant. The Owner or Occupant will provide the Department and the Water Board with sixty (60) days advance written notice of all proposals for any alterations or activities more than two (2) feet below the soil surface which are to be undertaken within the Covenant Property. The notice shall be accompanied by a detailed written description of proposed alterations or activities. Notwithstanding the above, the Owner or Occupant shall be under no obligation to provide notice of any alterations that will be undertaken totally within two (2) feet of the soil surface of the Covenant Property provided that such work will not impede or impair any activities under the Air Force's Installation Restoration Program (IRP).

c) Twenty (20) Foot Below Surface Soil Disturbance Notification. This restriction shall only apply to the property described and shown in Exhibit E to the Deed contained in Exhibit 1 to this Covenant. The Owner or Occupant will provide the Department and the Water Board with sixty (60) days advance written notice of all proposals for any alterations or activities more than twenty (20) feet below the soil surface which are to be undertaken within the Covenant Property. The notice shall be accompanied by a detailed written description of proposed alterations or activities. Notwithstanding the above, the Owner or Occupant shall be under no obligation to provide notice of any alterations that will be undertaken totally within twenty (20) feet of the soil surface of the Covenant Property provided that such work will not impede or impair any activities under the Air Force's Installation Restoration Program (IRP).

4051 Lead Based Paint Notification and Restriction. This restriction shall only apply to property within the boundaries of the parcels labeled as Parcel C-2 and C-3 on Exhibit 3

to this Covenant EXCEPTING THEREFROM that portion of Parcel C-3, labeled as Exclusion 1 on Exhibit 3, that is bordered by Mather Boulevard, Bullard Street, Schirra Avenue and Bleckely Street. No part of the above described property in this Section 4.05 I may be used as a residence or occupied by children under six (6) years of age until an evaluation of the lead-in-soil levels is completed and adequately addressed. The soils near the water tower (Facility 2400) and under and near the World War 11-era wooden structures in Parcels C-2 and C-3 (Facilities 2369, 2393, 3320, 3332, 3335, 3337, 2470, 2474, 2570, 3430, 3454, 3455, 3550, 3686, and 3790), as depicted in Exhibit 3 to this Covenant, may be contaminated by Lead Based Paint (LBP). Due to natural weathering and flaking of the paint, lead from the LBP may be present in the soils under and near these areas. Until an evaluation of the lead-in-soils is completed and US EPA's and the Department's concerns are adequately addressed for these areas, the County and its successors and assigns are required by the Air Force to restrict use of these areas to prevent residential use or occupancy by children under six (6) years of age. In the event the County transfers or otherwise assigns any portion of these areas to another party, the County is required to inform the transferee of the potential LBP in soils and ensure the transferee and any subsequent transferees will be contractually bound by the use restriction against residential or child occupancy use until US EPA's and the Department's concerns are addressed. An evaluation will be conducted and completed by US EPA and the Department with County cooperation and any identified risks will be addressed.

4.06. Prior Approval, Notification of Disturbances

- a) Requests for approval pursuant to sections 4.03 and 4.05, and all responses thereto, shall be served in accordance with section 7.04. With respect to requests for approval submitted pursuant to sections 4.03 and 4.05, the request shall be deemed approved by each of the governmental entities or agencies whose approval is required if no denial is received by the Owner or Occupant within thirty (30) days after that governmental agency or entity received the request. If an agency denies a request for approval, with or without prejudice, it shall state the basis for the denial.
- b) The Owner or Occupant shall notify the Department, the Water Board, AF and US EPA of each of the following events: (i) the type, cause, location and date of any disturbance caused by the Owner or Occupant to an Air Force Installation Restoration Program (IRP) site that affects the ability to extract, treat and/or monitor the hazardous wastes or hazardous material under the Covenant Property, and (ii) the type and date of any AF-authorized repair of such disturbance. The Owner or Occupant shall notify the Department, the Water Board, AF and US EPA within ten (10) working days of both the discovery of any such disturbance caused by the Owner or Occupant and the completion of any repairs. Notification shall be

in accordance with section 7.04. Timely and accurate notification by any Owner or Occupant shall satisfy this requirement on behalf of all other Owners and Occupants. If the Owner or Occupant becomes aware of any such disturbance, even though not caused by the Owner or Occupant, notice shall be given as provided herein.

- c) The Owner or Occupant shall notify the Department, the Water Board, AF and US EPA within ten (10) working days of the discovery of any hazardous material as defined in H&SC Section 25260(d) on the Covenant Property, which hazardous material was previously unknown to the Owner or Occupant. If such discovery requires an emergency response by the local fire department having jurisdiction over the Covenant Property, then the Owner or Operator shall immediately contact the fire department after such discovery.

3.07 Access. The Department and the Water Board shall have reasonable right of entry and access to the Covenant Property for inspection monitoring, and other activities consistent with the purposes of this Covenant as deemed necessary by the Department and the Water Board in order to protect the public health and safety and oversee the Air Force's Installation Restoration Program (IRP) activities.

4.08. Access for Implementing Operations and Maintenance Under the Air Force's Installation Restoration Program (IRP). The entity or person responsible for implementing the operation and maintenance of the Air Force's Installation Restoration Program (IRP) on the Covenant Property shall have reasonable right of entry and access to the Covenant Property for the purpose of implementing the operation and maintenance of the Air Force's Installation Restoration Program (IRP) until the Department, the Water Board, the AF and the U.S. EPA determine that no further operation and maintenance is required.

ARTICLE V ENFORCEMENT

5.01 Enforcement. Failure of the Owner or Occupant to comply with the terms of this Covenant shall be grounds for the Department and/or the Water Board to exercise any or all of their rights to require that the Owner or Occupant modify or remove any improvements ("improvements" includes but is not limited to all buildings, roads, driveways, paved parking areas, water wells, and surface impoundments) constructed or placed upon any portion of the Covenant Property by the Owner or Occupant, subsequent to the execution of this Covenant, in violation of the terms of this Covenant. Violation of any provision of this Covenant shall be grounds for the Department and/or the Water Board to file administrative and/or judicial civil or criminal actions as provided by law.

- 5.02. Limit of Liability. The County of Sacramento, subsequent to the transfer of its ownership interest in the Covenant Property to a transferee, shall not be liable or responsible for any violation or breach of this Covenant which is caused by or the result of action by (1) any transferee of the Covenant Property or (2) by any entity having a right of access to the Covenant Property

ARTICLE VI TERMINATION

6.01. Termination of Covenant. This Covenant and all of the restrictions provided herein shall terminate with respect to any portion of the Covenant Property referred to herein upon the written determination by the Department and the Water Board that the soil or groundwater in regard to such portions [hereof, has attained the remedial cleanup standards as required by, and set forth in, the applicable Soils and Groundwater and Basewide RODs pertaining to the Covenant Property, or portions thereof. The Department and the Water Board may make such a determination pursuant to a written request thereof by the Owner, or independently without such a request. The Department and the Water Board shall make the written determination as promptly as possible following a written request by the Owner. The Department and the Water Board shall sign such documents as the Owner may reasonably require in a form that may be recorded in the Office of the County Recorder of Sacramento County.

ARTICLE VII MISCELLANEOUS

7.01 No Dedication Intended Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Covenant Property, or any portion thereof, to the general public or anyone else for any purpose whatsoever.

7.02. State of California References. All references to the State of California, the Department, and the Water Board include successor agencies/departments or other successor entity.

7.03. Recordation. The Covenantor shall record this Covenant, with all referenced Exhibits, in the County of Sacramento within ten (10) days of the Covenantor's receipt of a fully executed original from the Department and the Water Board.

7.04 Notices Whenever any person gives or serves any Notice ("Notice" as used herein includes any demand or other communication with respect to this Covenant), each such Notice shall be in writing and shall be deemed effective. (1) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served, or

(2) on the third business day after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested:

To Owner: Paul Hahn, Director
Economic Development
County of Sacramento
700 H Street, Suite 7650
Sacramento, California 95814

or to the then record owner of such property

To Department. Anthony J. Landis, P.E.
Chief, Northern California Operation
Office of Military Facilities
DTSC
10151 Croydon Way, Suite #3
Sacramento, CA 95827

To Water Board: Gary M. Carlton
Executive Officer
Central Valley Regional Water Quality
Control Board
3443 Routier Road, Suite A
Sacramento, CA 95827-3003

To USAF: Dale O. Jackson
Program Manager
AFBCA, Division D
1700 N. Moore Street, Suite 2300
Arlington, VA 22209

To US EPA: Dan Meer
Chief
United States Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105-3901

Any party may change its address or the individual to whose attention a Notice is to be sent by giving written Notice in compliance with this paragraph.

7.05. Partial Invalidity. If any provision of this Covenant is ruled invalid, illegal, or unconstitutional, the remainder of this Covenant shall not be affected by such a ruling

7.06 Attachments. All attachments referenced in this Covenant are deemed incorporated into this Covenant by such reference.

7.07. Section Headings. The section heading set forth in this Covenant are included for convenience and reference only and shall be disregarded in the construction and interpretation of any of the provisions of this Covenant.

7.08. Representative Authority. The undersigned representative of each party to this Covenant certifies that he or she is fully authorized to enter into the terms and conditions of this Covenant and to execute and legally bind that party to this Covenant.

7.09. Compliance with Federal, State, and Local Laws and Regulations. Nothing in this Covenant is intended to exempt the Owner or Occupant from complying with federal, state, and local laws and regulations, including, but not limited to, requirements to obtain permits and other approvals from the County of Sacramento, the Department, and the Water Board that are relevant to development and other activities on the Covenant Property

IN WITNESS WHEREOF. The Parties execute this Covenant.

County of Sacramento

Date: 2/17/00 By: [Signature]

Department of Toxic Substances Control

Date: 2-11-00 By: Anthony J. La Lo

Central Valley Regional Water Quality Control Board

Date 2-11-00 By: [Signature]